

NEW JERSEY
INDIVIDUAL HEALTH COVERAGE PROGRAM BOARD
Trenton, NJ 08625

IN THE MATTER OF NYLCARE HEALTH PLAN'S
REQUEST FOR EXEMPTION FROM ASSESSMENT
FOR 1995 REIMBURSABLE LOSSES

ADMINISTRATIVE ORDER NUMBER 96-25

WHEREAS, the New Jersey Individual Health Coverage Program ("IHC") Board is authorized by the Individual Health Insurance Reform Act of 1992 ("IHC Act"), N.J.S.A. 17B:27A-2 et seq., and regulations promulgated thereunder, to administer the IHC Program, to assess members of the IHC Program on the basis of their proportionate share of program losses and administrative expenses and to take any legal actions necessary to recover assessments owed to the IHC Program;

WHEREAS, NYLCare Health Plans (formerly doing business as affiliated carriers "Sanus Health Plan of New Jersey" and "New York Life Insurance Company," hereinafter referred to as "NYLCare") is a "carrier" that filed a combined carrier Market Share and Net Paid Loss Report ("Exhibit K") with the IHC Board on February 28, 1995 on behalf of all affiliates which reported net earned premium of \$66,079,335;

WHEREAS, based on the net earned premium reported, and in accordance with N.J.A.C. 11:20-9.3, the Board notified NYLCare on May 3, 1995, that its minimum enrollment share for 1995 was 3,395 non-group persons;

WHEREAS, on June 1, 1995, NYLCare filed a request for exemption from assessment for reimbursable losses of the IHC Program for calendar year 1995 pursuant to N.J.A.C. 11:20-9.2. In doing so, NYLCare agreed to enroll the minimum number of non-group persons assigned to it by the IHC Board;

WHEREAS, the IHC Board granted NYLCare's request for a conditional exemption, contingent upon NYLCare's meeting its minimum enrollment share;

WHEREAS, on April 16, 1996, NYLCare reported, as required by N.J.A.C. 11:20-9.5, its enrollment of 256 non-group persons, or 7.5% of its minimum enrollment share;

WHEREAS, pursuant to N.J.A.C. 11:20-9.5(f)(1), any carrier granted a conditional exemption that enrolls or insures fewer than the minimum number of non-group persons allocated to that carrier by the Board shall be liable for a pro rata exemption from assessments based upon the percentage of the minimum number of non-group persons actually enrolled or insured by the member, subject to a demonstration by

the member to the Board that the member has made a good faith effort to enroll or insure the minimum number of non-group persons allocated to it;

WHEREAS, a carrier that enrolls less than 50% of its minimum enrollment share must demonstrate a good faith marketing effort in accordance with the reporting criteria set forth at N.J.A.C. 11:20-9.6 and subject to the Board's review of the carrier's advertising, marketing and promotion efforts in direct support of sales of standard health benefits plans during the applicable calendar year;

WHEREAS, pursuant to N.J.A.C. 11:20-9.5(f)(2), if the Board finds that a member has not made a good faith effort to enroll or insure its minimum number of non-group persons, the member shall not receive a pro rata exemption;

WHEREAS, NYLCare filed, on July 9, 1996, a 1995 Good Faith Marketing Report (incorporated herein by reference), pursuant to N.J.A.C. 11:20-9.6, describing its marketing efforts in direct support of sales of individual health benefits plans in New Jersey, which efforts, in summary, consisted of: sales through New York Life agents; the establishment of an exclusive broker agreement, effective September 1, 1995, with a lead broker for individual health benefits plans; a picnic for insurance brokers on September 13, 1995 in Cherry Hill for brokers to promote NYLCare's expanded service area; and a golf outing for brokers on October 17, 1995;

WHEREAS, in response to a September 6, 1996 request from the IHC Board for additional information and clarification of its marketing report, NYLCare responded to the Board, by letter dated February 28, 1996, and confirmed that NYLCare paid \$25,000 in commissions to agents on individual health benefits plans, but clarified that additional marketing and advertising activities had been directed toward establishing general name recognition, but were not in direct support of individual sales;

WHEREAS, the IHC Board, on June 12, 1996, assessed NYLCare in the amount of \$760,724 for its share of 1995 reimbursable losses and administrative expenses, applying a pro rata exemption as a result of NYLCare's having met 7.54% of its minimum enrollment share, pending the Board's review of the Good Faith Marketing Report and follow-up information. NYLCare paid \$760,724 on August 20, 1996; and

WHEREAS, the IHC Board has reviewed NYLCare's Good Faith Marketing Report and, based upon the materials presented therein, concludes the following;

- NYLCare's only marketing efforts in support of sales of individual health benefits plans consisted of the establishment on September 1, 1995 of an exclusive broker agreement to offer individual health benefits plans and the distribution of marketing materials regarding individual health benefits plans, among other products, at a picnic for brokers intended to promote NYLCare's expanded service area, on September 13, 1995 in Cherry Hill; and a golf outing for brokers, on October 17, 1995;

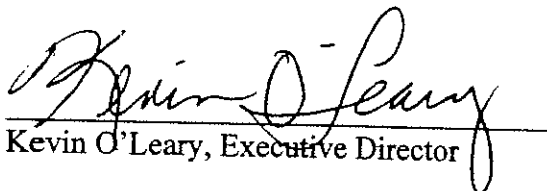
- NYLCare's efforts to sell individual health benefits plans could not, under the most favorable circumstances, have resulted in NYLCare's enrolling 3,395 non-group persons in calendar year 1995;
- NYLCare did not undertake, in a timely manner, a significant media advertising or other marketing campaign, in proportion to its minimum enrollment share, in direct support of sales of standard individual health benefits plans;
- NYLCare did not undertake, in a timely manner, significant efforts, in proportion to its minimum enrollment share, to educate licensed insurance producers about its standard individual health benefits plans or offer to pay competitive commission schedules for sales of such plans and offer competitive rates; and
- NYLCare has failed to demonstrate that it has made a good faith effort in 1995 to enroll the minimum number of non-group persons allocated to it by the Board, as required by N.J.A.C. 11:20-9.5(f)(1).

NOW THEREFORE, pursuant to the authority granted to the Board by N.J.S.A. 17B:27A-2 et seq., N.J.A.C. 11:20-9.5(f)(2), and all powers expressed or implied therein, and the decision of the Board as expressed by this Administrative Order;

IT IS on this 8th day of October, 1996,

ORDERED that NYLCare's request for an exemption from assessment for 1995 reimbursable losses of the IHC Program is hereby denied and, further, NYLCare shall not receive a pro rata exemption inasmuch as NYLCare has failed to demonstrate a good faith marketing effort to enroll the minimum number of non-group persons assigned by the Board. The Board will recalculate the 1995 assessment pursuant to this decision and notify NYLCare of the adjusted assessment due following resolution of all pending appeals and recalculation of all carriers' assessments for calendar year 1995.

IT IS FURTHER ORDERED that, pursuant to N.J.A.C. 11:20-9.5(g), NYLCare may, within 20 days of receipt of this Order, request a hearing in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1, et seq. A request for a hearing shall include a detailed explanation of the factual and legal reasons that the Board's action should be reconsidered.


Kevin O'Leary, Executive Director

11-18-96
Date

**NEW JERSEY
INDIVIDUAL HEALTH COVERAGE PROGRAM**

20 West State Street
CN-325
Trenton, New Jersey 08625
(609)633-1882
FAX: (609)633-2030

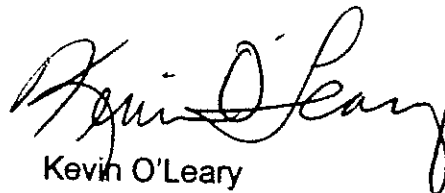
November 15, 1996

Mr. Robert Trobe, Exec. Vice President
NYLCare Health Plan
2 Brighton Road - Suite 200
Clifton, NJ 07012

Dear Mr. Trobe:

Enclosed please find the Individual Health Coverage Program Board's final decision regarding NYLCare Health Plan's request for exemption from of the 1995 assessment for Program losses. Please feel free to call me if you have any questions about the Order or the IHC Program generally.

Sincerely,



Kevin O'Leary
Executive Director

encl.